

Approved 7-7-2016

I. Meeting Called To Order at 7:30PM by Chairman Schulteis. The Pledge of Allegiance was recited.

A. Official Meeting Notification.

B. Roll Call. Present: Chairman Albert Schulteis; Supervisor Robert Roecker; Members: Karen Reiter, Jeffrey Fehring, Mark Peters, Dennis Sang, William Whitney; Zoning Secretary Tracy Groth; Guest: Supervisor Theodore Merten.

C. Silent Prayer. Chairman Schulteis called for a Moment of Silent Prayer.

D. Public Comment. 15 Minutes.

Chairman Schulteis opened the floor to Public Comment. Secretary Groth read into the record an email from Stacey Kaiser, 4826 Briarvale Drive, stating concern with regard to the extension of Briarvale Drive. Email attached to MINUTES.

James Foscatto, 4820 Glenway Court, addressed the Commission. Putting in the road will eliminate green space that has been since the subdivision has been there. The proposed road stub "was never set up, never had foot or other traffic. I have for 30 years been cutting grass, killing weeds there". Foscatto stated that he and a former resident terraced the green space to prevent water from washing through the area. "It has been abandoned property. Now there are 10 foot pines, box elders and the terracing job that would be taken out. I think this is adverse possession since I have been maintaining it, not the Town. There was a lot that was dedicated as a park. No one maintained it, so they [developer] took it back. I didn't want that to happen in this area [dedicated road stub] so I have kept it maintained so it would not become an eyesore."

Dave Herr addressed the Commission. "Why is this secret? Not everyone was informed. I think this should be suspended until all the neighbors can voice their opinion. I also noticed that there is a very large culvert that goes in there. I am concerned about water drainage. Right now the water is going under Briarvale and into where the proposed road would be." Chairman Schulteis advised Mr. Herr that the Town Board will hear this proposal at its next meeting and that since this road stub has been platted, a Public Hearing was not required. The Town noticed the adjoining property owners with a letter which was beyond what the Town is required to do.

There being no further comment, Chairman Schulteis closed the Public Comment portion of the meeting.

II. Unfinished Business- NONE

III. New Business

A. Conceptual CSM to divide a 2.74 Acre Parcel into (2) R-1 Residential Lots In accordance with Title XI Land Division Ordinance. 4871 Rolling Hills Road, Polk, Washington County, Wisconsin. Section 6. Zoned R-1 Residential District.

Tax Key # T9-0311-001. Randy and Peggy Krebs, Property Owners.

Chairman Schulteis invited the applicant to present to the Plan Commission. Randall Krebs offered to address the Commission's questions. Dennis Sang asked if the matter would be taken up by Board of Appeals. Schulteis commented that the matter would be taken up by the ZBA. However, the ZBA would want input from the Planning Commission from a planning perspective. Secretary Groth commented that the Plan Commission, should it choose to do so, could recommend approval of the concept contingent upon the receipt of a variance from the Zoning Board of Appeals. Karen Reiter asked the applicants if they were aware that the matter had come before the ZBA on a previous occasion. Krebs acknowledged that he was aware that the previous owner of the property asked for a variance to divide the lot in half before he purchased it. Krebs stated that their "current house is too large, the kids are gone. We want to live on the same street in the same neighborhood, and build a retirement size home. Want to divide the lot into lots. Reiter asked Krebs if they approached the neighbor to buy the additional square footage needed [to create two conforming lots]. Krebs stated, "The neighbors are not interested in selling any portion of their parcel."

Schulteis noted that many .86 acres were established on the street. Reiter noted that those were probably created before

Title X [Municipal Code of the Town of Polk]. There was discussion as to whether or not the parcel was zoned agricultural or residential when previous owner purchased it. The general consensus was that the parcel was probably zoned residential when it was created. Sang asked for clarification as to whether or not the right-of-way (ROW) could be considered in the area of the lot. Secretary Groth commented that ~~the stated that~~ Town Ordinance allows for the ROW to be considered only with an A-1 [General Agricultural] parcel.

Karen Reiter moved to recommend to the Town Board, the approval the conceptual CSM contingent upon the receipt of a variance from the Zoning Board of Appeals (ZBA) to create the nonconforming lot. William Whitney seconded the motion. Discussion was held. Reiter reviewed for the Plan Commission, and the applicant, the criteria by which the ZBA considers applications for variance. Sang questioned whether or not there was hardship, but acknowledged that issue was for the Zoning Board of Appeals to decide. Reiter requested that the Secretary provide information as to the establishment dates of the lots on Rolling Hills with the ZBA packets. The motion was put to a vote. All voted in favor and the motion carried.

B. Business Use Permit for Travis Dowden and Benjamin Anderson in accordance with Title X Section 3.07 to operate a restaurant and tavern, Sobelman's, at 3747 Cedar Creek Road, Polk, Washington County, Wisconsin. Section 10. Zoned B-1 Business District. Tax Key T9-0567. Travis Dowden and Benjamin Anderson, Business Owner. GCAM-CC, LLC Property Owner.

Chairman Schulteis invited the applicant to present to the Commission.

Ben Anderson, co-owner addressed the commission and introduced himself and Travis Dowden.

Anderson stated the pub and grill is known for its burgers and Bloody Mary's. Their goals are to keep the Schwai building alive and to be contributing members to West Bend area via charitable activities. There was discussion regarding signage. Jeffrey Fehring asked about sign illumination. Anderson stated that the sign at the rear will be back lit. The sign at the East side of the building will be lit, but will not shine onto the road. William Whitney moved to recommend to the Town Board the approval of the Business Use permit and signage to the Town Board. Motion seconded by Mark Peters. All voted in favor and the motion carried. Anderson stated that they are "shooting for a mid-July soft opening" of the pub and grill.

C. Site Modifications for GCAM-CC, LLC in accordance with Title X Section 3.07 at 3747 Cedar Creek Road, Polk, Washington County, Wisconsin. Section 10. Zoned B-1 Business District. Tax Key T9-0567. GCAM-CC, LLC Property Owner.

Kevin Zimmer joined the meeting via telephone. The application for site plan modifications included: Parking lot lighting, landscaping, and location of the enclosed dumpster area.

The plan for the installation of light poles and down lights was presented. Fehring expressed concern as to whether or not the lighting was sufficient to illuminate the outer boarder of the parking lot. Sang commented, "Aren't we concerned by spill over. Dumpsters are lit pretty bright, then near zero light spilling onto the outer edges of the lot and onto the street." Anderson stated that the back of the building at the entrance is lit, as is the ADA ramp entrance. The center gets a lot of light, if parking on Cedar Creek road, the reduction of light is dramatic. The isometric provided by the applicant indicates the changes in illumination across the parking lot. Anderson suggested addressing the disbursement of light once they are installed and lit. The lights allow for adjustment in how the light is cast upon the area. The lights are directional and LED. The Gazebo is lit from the inside. Reiter suggested that a limitation be set as to when the exterior lights should be turned off at night. There was discussion as to when the lights should be turned off or dimmed. Dimming the lights over night was discussed as a security measure. The restaurant is close to the dwellings of the residential neighbors and how the parking lot is lit may be impactful to area. The lighting should provide security yet not disturb the neighbors. The general consensus of the Commission was that the applicant comes back to the Town by the end of 2016 to review the lighting situation.

The conversation went to landscaping on the parcel. Chairman Schulteis asked the applicant "Since the parking lot is not being

expanded right now, will you be doing some landscaping where the severe bank is?" Zimmer responded that in talking with Gremmer [engineering firm], Washington County has plans to bring dirt to the current grade and planting some type of erosion control greenery. Zimmer also commented that it was difficult to plan landscaping knowing that the area will be disturbed for the reconstruction of County Road C. Discussion was held and it was the consensus of the Commission members that a landscaping plan could not be addressed until County Road C reconstruction is complete.

Dennis Sang moved to recommend approval to the Town Board, of the lighting plan with the stipulation that the Town review, by the end of 2016, the lighting plan with respect to dimming; and that the Commission had no opposition to the grading plan or to the location of the dumpster. Motion was seconded by Robert Roecker. All voted in favor and the Motion carried.

D. Conceptual CSM to create (2) 5 +/- parcels from a 10 acre parcel with access from Briarvale Drive in accordance with

Title XI Land Division Ordinance. CSM 4076, Section 2. Polk, Washington County, Wisconsin. Zoned A-1 General Agricultural District. Tax Key T9-0028-00C. Dale & Dawn Klumb; Dennis & Diane Hambly, Property Owners.

Robert Roecker recused himself from the business item stating he had a business relationship with Mr. Klumb. Roecker joined the audience. Chairman Schulteis recognized a woman from the audience. She asked why the applicant wanted to access his parcel from Briardale Drive. Chairman Schulteis invited the applicant to explain his request [to access Briarvale Drive rather than via Townline Road]. Dale Klumb answered that it would be a shorter road to build. Schulteis commented that the applicant would have to put in less road if he came through Briarvale than the road he would have to build off of Townline Road. There was further discussion as to how the parcel would connect from Briarvale Drive to the two proposed 5 acre parcels. Schulteis stated the parcels would be accessed from Briarvale via a Cul de Sac on the applicant's property. Schulteis provided some history regarding the Hamby/Klumb parcels. In 1993 or 1992 the applicants had a CSM [3 Lot] approved where the Town allowed the first two lots to be accessed via a shared access off Townline Road. If the applicant were ever to develop the third lot, a private road would have to be installed. In January of this year, applicant came before the Town with a concept to divide the existing third lot into 2 [five acre] lots. The Town was supportive of the concept if the applicant installed a road south to the north end of proposed Lot 4 with a cul de sac and a road reservation to the southern end of Lot 4 to provide access for further expansion " for someday, just as the road stub was put in Far Horizons". Schulteis went on to comment that the applicant explored the cost to install a private road and saw that it would cost less to build a road from Briarvale than from Townline. Off Townline, he would have to build in excess of 800 feet of road; off Briarvale, he would be looking at closer to 200 feet of road plus the cul de sac. A member of the audience expressed concern that her lot [in Far Horizons] would end up with a road on three sides of her lot.

Schulteis clarified that with this application, the road reservation on the current CSM would no longer exist and that the road reservation was on the east side of the applicant's property and did not abut properties on the east side [of Far Horizons]. Schulteis commented "What the Plan Commission did in 1993 and in January this year, was the best for planning. I don't blame you [the applicants] for coming in here right now to request this...that's just crunching numbers." Schulteis invited questions and comment from the Plan Commission. Jeffrey Fehring asked how the applicant came to know the road stub off Briarvale existed. Dale Klumb stated that "We knew it was there all along". Fehring asked why they didn't want to access the stub at the time. Klumb stated they had no desire at that time to divide it up [the 10 acre lot 3]. "Now me and my wife want to build another house back there. It just seems more sensible to come off that [Briarvale Road]". Reiter asked if the Far Horizons had any covenants. Secretary Groth commented that she reviewed the Far Horizons town files and did not find record of

covenants for the subdivision. Sang asked if we know if this road is still platted. Groth commented that is still platted on the County maps. Chairman Schulteis commented that according to the Wisconsin Town Association attorney, even though the neighbors have been taking care of the property, it is still a town road reservation for future use at any time. Sang asked if the road reservation had been abandoned by the Town. Schulteis commented that it had not. Reiter commented that a lot of water runs through that reservation area. Sang stated that the water flow would have to be addressed with the engineering of the road. There was discussion as to whether the road reservation area had ever been graded and whether ditching would have to be done with a road extension. Fehring asked for clarification that if the applicant put in the road extension at his cost, the Town would then have to maintain the road and plow it. But, if the applicant put in the private road [on applicant's CSM], the applicant would be responsible for maintaining it. Schulteis commented that Fehring was correct. Klumb asked if the Town would take over the cul de sac as well. Schulteis stated that the Town would have to because we would have to turn around there with the plow and there may be school buses there one day. Since the last subdivision in the Town was put in, the Town has not accepted any new town roads. "Do we even want to consider taking on roads now?" Reiter commented that she would be open to this plan if the parcel was landlocked. But, the parcel is not land locked. It was created with a private road reservation to access it. In 1993 and again this year, plans have been approved for him that involve accessing lot 3 with a private road. Reiter stated that at the January meeting we agreed to allow the road to be installed to the north end of the proposed lot 4 with a cul de sac [rather than installing the road the entire length of the lot]. I don't think we should disturb the subdivision.

Schulteis commented that Stacy Kaiser's lot was to be accessed off Briarvale, but the road had not been established yet, so the driveway was put in at an angle to access the paved portion of Briarvale. Almost her entire driveway would have to be reconfigured. There was more discussion with regard to the water runoff in the stub road area. Audience member Foscatto commented about the mature trees that would be removed, the water runoff in the area, and that the road would come close to Kaiser's front door. She also stated, "This is a quiet subdivision that would have to take on more traffic. People not familiar with the subdivision are going to go down that hill, make a turn in there [road stub/cul de sac]". Comment was made that there are lots of "little kids" in the area. "I worry about the whole situation".

Klumb commented that the road would only serve two lots and would not be a thru road. Schulteis commented for planning purposes, in 1993 and again twenty years later, the private road reservation approved on your CSM is the way to go. Mark Peters commented that the road reservation would connect all the way to John Peil's land to the south which is landlocked. Klumb commented that to connect [to Peil], land from Mike Robinson would also have to be acquired. Klumb stated that knowing Mike Robinson, "That ain't happening". Fehring stated that he isn't sure that Peil's landlocked parcel is something we can solve. Peter's stated that at some point, the landowners may get together and agree to a plan to access that area (south of Klumb/Hambly property). Klumb stated that they would not agree to put in the road to access the south of their parcels. "You are creating another landlocked property if you don't allow us to put a road across through Briarvale". Reiter commented that the Commission is not creating a landlocked property. The parcel already exists with a road reservation to access it. Klumb stated that he has talked to Peil and Robinson about putting a road in to connect to the south, but couldn't make an agreement. He has not contacted Robert Peil about putting in the road. "To go to the cost of putting in a road to connect those two back lots, I would be giving my land away". Peters asked if a road reservation could be put through the new lots off Briarvale to connect to the south. There was discussion and the consensus was that too much of the lot area would be taken up in road reservation. Klumb commented that the neighbors in the

subdivision would take issue with such a road reservation. With the permission of the Chair, Secretary Groth commented that the private road on the Klumb CSM was approved in 1993 and again with a concept revision this year; and questioned whether or not the Commission should consider the economic hardship of the applicant [to build the road]. There were no further comments or questions. Karen Reiter moved to recommend that the Town Board deny the conceptual CSM to create two 5 acre parcels with access from Briarvale Drive in accordance with the Town's Title XI Land Division Ordinance. Motion seconded by Dennis Sang. All voted in favor in except for Jeffrey Fehring who voted, nay. The motion carried. Chairman Schulteis advised the applicant that the matter would go before the Town Board. Klumb said words to the effect, then it's over? Schulteis stated that the Town rarely goes against the Plan Commission recommendation unless there is new information to be considered. The homework is done by the Plan Commission. Klumb stated that he doesn't understand why he can't use the use the road reservation off Briarvale - "It already exists". Sang stated that his [applicant's] road reservation also already exists along your east property line since 1993. Schulteis said that from a planning point of view, it makes no sense to disturb the subdivision. Klumb commented that his land is going to sit for a long time.

E. Conceptual Site Development Plan by Thomas Timblin for a Mixed Use Commercial and Multi-Family Development. Parcel located at 2933 Pleasant Valley Road, Polk, Washington County, Wisconsin, Section 12, Tax Keys T9-0470, T9-0471, and T9-0472. 80 +/- acres. Francis and Rita Peters, Property Owners.

Schulteis addressed the Commission. The plan that Mr. Timblin brings before us tonight is not much different than what has been presented in the past, but we wanted to give the Plan Commission an opportunity to ask questions of Mr. Timblin and to elaborate on his concept.

Timblin: "We have been at this for six months, been a long process. We have decided to go the PUD route and think it a better route for the Town and provide more accountability. The concept is the same to provide commercial lots along Pleasant Valley and multifamily in the back of the eighty acre parcel. Timblin noted that he has Petitioned the Town to rezone the eighty acre parcel and asked about the process. Schulteis commented that the Petition is on the Town Board agenda. Typically, the Board will send Petitions to rezone to the Plan Commission for their recommendation. With this petition, the zoning ordinance would have to be changed. Conversation regarding Timblin's petition was suspended since the Commission did not have the Petition before them.

William Whitney asked "Are you still considering 500-700 people, three story high buildings?" Whitney stated that he was concerned about three stories. "I understand that if you put in underground parking you are going to have another half a story or story, but my concern is about three stories of apartment units. Timblin stated that the underground parking would be totally underground. "We would have elevators because construction is cheaper with three story buildings. However, I am totally open to two story buildings and that you have to do some changes to your zoning. I am a common sense individual and if that is something that rubs the board the wrong way we can certainly talk about it." Whitney: "The two story buildings along HWY 60 and Hillside Road buildings are awfully close together – but it looks like you will have a lot more space [between buildings], but I just don't like the tower part of it". Timblin noted that they intend to put a large berm along HWY 45 so the apartments won't even be visible from 45. We will a landscape with trees and a fence. We will make the berm as high as possible and would use the topsoil from the building of the roads." Peters commented that there is noise from the freeway and an operating farm on opposite side of the road. Timblin noted that he stood on the property and understands the road noise, so he wants to make the berm as high as possible to reduce that noise.

Peters commented, "There are developments along Hwy 45 where berms were built with trees and you can't see the buildings from the road now". The berm would go from the back and would taper off once it reached the commercial

lots. Sang asked if there were any commitments or queries for tenants on the commercial lots. Timblin said, "Clearly a gas station would go on that corner there and there has been so much talk of a hotel over the years and I have talked with Fair Park. They would love to have a hotel but can't put one on the Fair Park property because they can't afford to lose the parking space. It's going to be tough to put a hotel up right away because we have to populate the area a little bit. With all the events at Fair Park we could keep the hotel occupied at about 25 percent over the weekends, but that is not enough. You have to have 60-70 percent occupancy through the week. We have to get a little more population there and multifamily [housing] would help do that. Sang asked, "Anything other potential commercial"? Timblin: Possible fast food. I can't give specifics to anybody [potential tenants]. Once this is rezoned, I can hit it hard. I know a hotel owner in northern Wisconsin and Minnesota and he is always looking to expand, but I can't approach him at this point in the project. Peters asked if he was going to purchase the Chapman property. Timblin commented that he has already purchased the property. Reiter asked what the first thing he would do if this project was approved. Timblin said the first phase would be to install the roads and the four foot walking/biking trails. The multifamily would be built in phases and commercial would be built as soon as possible.

Timblin commented, "I am aware that the Town wants to maintain a rural atmosphere and that is why I want high berms, at the same time I call it a healthy lifestyle development. The young millennials in their 20 and 30's like this concept. I am going after two types of market with this development. There are almost 500 people working 3 shifts at the hospital. A lot are young professionals would like to live where they could just take their bike to work. I really believe we could get 100 tenants from just the hospital employees. Also looking at 50 and over that are empty nesters or those that go back and forth from Phoenix or Florida and just want a nice upscale place that is quiet and they can take a walk on the trails, go to the pool or take a yoga class. We will have a facility for those activities. People like the idea of having everything in one place. We built 125 apartments in Kewaskum, since sold; a condo complex in Barton that is completely built out and condos in Kewaskum that are built out. We managed those properties for 12-15 years and we were 96-99 percent occupied at all times because we managed them well. We want to run this as a family run business for the long term. Fehring asked if all the multifamily would be apartments. Timblin stated that all the housing would be multifamily rental. And that duplexes/fourplexes would not be viable financially. The original plan had been to put single family housing in the wooded area. We are no longer planning on doing anything in the woods; we want to keep it as a park, undeveloped. Sang asked about building sizes. Timblin said that he is looking at 40-42 unit buildings with underground garages and different size units in the buildings. Anywhere from 800 square feet for a one bedroom to 1000 square feet. Two bedroom apartments might be 800-1400 square feet to offer different looks and price points. Rents would be above the average for the area. That is why we want three story buildings so we can put some townhouses in there with two bedrooms and two levels with cathedral ceilings which is a good draw for upscale. They are very popular. There would be one building per lot. Each lot is 2.5 – 3.5 acres. Looking at developing this a PUD, we might reshape this.

Schulteis asked about the disbursement of apartments for tenants over fifty years and those apartments for the young professionals. Timblin: "We would mix it up. Certain buildings would be 50 and over. No three bedrooms in this concept. Three bedrooms apartments don't work well with our model". There was discussion as to how that type of separate occupancy could be maintained. Timblin said with planning and marketing, you can anticipate occupancy. There may be only one over 50 building for each market building. Peters asked if the road dead ending at the Speath property would eventually let out to County Road P. Timblin stated, "What will probably happen is the road that goes to the back of the property will go through the Weninger property and let out at County P when the Weninger property gets developed." Sang asked about the sewer connection with Jackson. Schulteis stated that Timblin is having difficulty getting the Village of Jackson to respond to him. The Town has directed its attorney to draft a letter to Jackson reminding them of their sewer agreement for that parcel. Sang: "Why won't Jackson answer questions about establishing utilities? You would be paying connection charges and monthly fees, generating income for the Village? They have sewer running all the way to the hospital". Discussion was held in speculation as to why the Village is stalling communication regarding utility service. Peters asked if cul de sacs would be put on the roads within the development. Schulteis commented that turnarounds would be part of the plan.

Fehring asked if a single family development or duplex development would be viable with this concept. Timblin said that it would be very tough. There was discussion as to whether or not a single family development could be constructed with POWTS. Groth commented that in a conversation with Washington County Land Use, we were advised that a subdivision within a sewer service area would be required to be served by the sewer district. Timblin said that he built the Lost Nations development with onsite POWTS. The City of West Bend wanted him to put in a lift station. The Town of Barton helped him by allowing him to put in a large capacity POWTS and wells. But, he does not think that will work with this development or with the State, or Jackson's jurisdiction. Schulteis asked if Timblin would be open to a single family development. Timblin said no. That with what he is paying for this land, single family development is not financially feasible. Sang asked if an all commercial or industrial development would be viable. Timblin said no, those type lots are not selling right now.

There were no more questions of the applicant. No action taken.

F. Zoning Violations

Secretary Groth commented that there appears to be commercial activity on two agricultural parcels along Hwy 60. The activities would not meet the criteria for a conditional use permit. We have approached both property owners and advised them the activity must stop or apply for appropriate zoning. One of the property owners has petitioned the Town to rezone. The other property owner has ignored the multiple requests for communication on the matter. We are looking for direction from the Commission on this matter. Would the Town wish to cite the property owner, or at this point, have the Town attorney contact the property owner? Discussion was held. The Commission members were in consensus that the next step in resolving this zoning issue would be contact with the property owner by the Town attorney.

Update on County Road C property: The Town gave the property owner some directives for cleaning up the parcel before winter. The property did what was asked of him, but it appears that over the winter, he did bring more materials onto the property. The Zoning Secretary, Town Chairman, Sheriff's Deputy inspected the property recently and talked with the property owner to develop a plan to completely clean up the property by September 1, 2016.

IV. Other Business

- A. Correspondence. None
- B. Informational Items. None
- C. Zoning Board of Appeals Report. None. The Zoning Board of Appeal did not convene in June.

IV. Adjournment. Mark Peters moved to adjourn the meeting. Jeffrey Fehring seconded the motion. All voted in favor and the motion carried. Meeting adjourned at 9:30PM.

Respectfully submitted,

Tracy L. Groth
Zoning Secretary